



STATE OF ARIZONA

JANICE K. BREWER  
GOVERNOR

EXECUTIVE OFFICE

December 17, 2010

The Honorable John Boehner  
1011 Longworth H.O.B.  
Washington, DC 20515

Dear Speaker-elect Boehner:

Congratulations on your recent selection as Speaker-elect of the House of Representatives. I look forward to working with you on issues facing the states.

When the new Congress convenes next month, Republicans will have a long list of very important issues that must be addressed, including repealing and replacing the recently enacted Patient Protection and Affordable Care Act (Public Law 111-48) and the health-related portions of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), collectively known as the "Affordable Care Act" (ACA), before many of its major provisions affecting states take effect in 2014. However, my concern in this letter is more immediate. ***I am respectfully requesting that the new Congress eliminate the Maintenance of Effort (MOE) spending mandate for state Medicaid programs enacted as part of the ACA as soon as possible so that Arizona and other states may balance their budgets.*** Please let me explain Arizona's and other states' dilemma and how the Congress can help.

*Along with many other states, Arizona is facing a daunting state budget crisis.* The State of Arizona has been grappling with fiscal challenges for the last several years. We lost over 300,000 jobs, which equates to over 10% of our workforce. A side effect of these economic conditions is that state revenue collections are down by 34% since the start of the recession and enrollment in the Arizona Medicaid program is up by over 44% during this same time. Over the past couple of years, we have addressed our budget deficit by cutting over \$2.2 billion out of \$10 billion in state general fund expenditures. Despite these efforts, Arizona still faces a major budget shortfall of an estimated \$600 million to \$825 million in this fiscal year and \$1.2 billion in the next fiscal year.

*The growth in Arizona Medicaid spending is a key cause of our state budget crisis and is unsustainable.* An important source of our budget shortfall is Medicaid spending, which has soared by 63% since the start of the current recession. Amazingly, over 20% of Arizona's population is now covered by Medicaid. Arizona's base Medicaid obligations have increased from 18% of the state General Fund in Fiscal Year (FY) 2007

to 30% in FY 2011. With the upcoming expiration of the federal stimulus monies for Medicaid through the American Recovery and Reinvestment Act (ARRA) on June 30, 2011, Arizona will see its state match requirement for Medicaid increase by almost \$700 million. We cannot afford this increase without gutting every other state priority such as education and public safety. Put quite simply, we have a Medicaid program that is not affordable or sustainable.

Arizona's situation is somewhat unique because it has a more generous eligibility standard for Medicaid enrollment than most states. Arizona is one of only a handful of states that previously pursued an expansion of Medicaid for adults beyond federal requirements. Due to the voter-approved Proposition 204 in 2000, Arizona's Medicaid program expanded to cover all persons below 100% of the federal poverty level (FPL). Most states cover adults with incomes far below 100% of FPL. Starting in 2014, the ACA will mandate coverage for all residents with incomes below 133% of the FPL.

Despite its severe budget woes, Arizona is prohibited from reducing its generous Medicaid eligibility standard due to the ACA-imposed Maintenance of Effort requirement. As a condition of taking the ARRA federal stimulus assistance for Medicaid, Section 5001 of ARRA imposed a MOE -- a mandate that each state's Medicaid eligibility standards, methodologies and procedures could not be more restrictive than those in effect on July 1, 2008. The ACA essentially extended the ARRA MOE until 2014, and expanded it to include the Children's Health Insurance Program. The "trick" on the states is that, unlike the ARRA MOE, the ACA imposed an unfunded federal mandate by prohibiting almost all changes to eligibility standards and failed to provide federal monies to pay for the mandate.

Arizona is trying to cope with the federal Maintenance of Effort mandates by reducing program costs in other ways besides changing eligibility. Because we cannot change our generous eligibility standards, Arizona has taken actions to reduce our Medicaid cost, such as limits on services not mandated by Medicaid, including potentially life-saving organ transplantations. We have made additional provider rate reductions, imposed additional cost sharing requirements from beneficiaries and accelerated our anti-fraud activities.

The federal government needs to seriously reconsider its mandatory benefits package. Medicaid benefits have become one of the most generous health care coverage packages in the nation, with nearly every possible service considered to be mandatory. Requests for relief from those mandates have been denied. For instance, Arizona tried to eliminate federally mandated services like gastric-bypass surgery from its state plan, only to see that request denied. Incredibly, even requests for semi-annual reviews of eligibility, instead of annual review, have been denied. We are currently waiting for a response on our waiver to eliminate taxi cab rides and bus fare for program beneficiaries. The Medicaid program must be re-focused on essential and catastrophic services for it to be manageable in the long run.

States need the authority to reduce eligibility standards for their Medicaid programs. While the measures discussed above are helpful, these cost control measures cannot fix our budget challenges, which are the effect of excessive demand caused by Arizona's generous Medicaid eligibility standard. I have attached my previous correspondence with Arizona's Congressional delegation, the previous Speaker, and the President regarding these pressing matters. States like Arizona need your help – through your repeal and replace efforts in the long term, and through the immediate elimination of the ACA MOE requirement in the short term. Mr. Tom Miller of the American Enterprise Institute, a well-known health care expert, recently opined that:

“Rolling back or reversing the initial ‘maintenance of effort’ straightjacket imposed by PPACA on the overstretched state Medicaid programs is the first step toward fiscal sanity.”

Beyond Repeal and Replace – What Republicans Need to Do About Obamacare, *Forbes* (Nov. 3, 2010)

I am respectfully asking you and the new Congress to take this “first step” as Mr. Miller recommends. Eliminating Arizona's and other states' ability to change Medicaid eligibility levels makes it virtually impossible to balance state budgets in the next six months. I am not surprised to hear that states across the country, including Arizona, are starting to consider whether they can continue to sacrifice core state services such as education and public safety in order to fund an ever-growing Medicaid program over which they have limited control. Left unchanged, the ACA will turn states into tax collectors for Uncle Sam's health care mandates. If hundreds of waivers from the rigid ACA mandates can be given to various companies and labor unions, it is more than appropriate for Congress to grant some flexibility to our struggling states on Medicaid eligibility standards.

In conclusion, I believe our country is at a critical juncture and that the voters have clearly spoken. They expect government to get back to fundamentals, make difficult decisions and start living within its means. In many ways, Arizona's experience with expansive eligibility standards shows the folly of the ACA's planned Medicaid expansion in 2014 that will lead to the ruin of state budgets and eventually into a government-run health care system. I believe we need to reverse course and return to the principles of the free market and limited government. Through their choices in November, voters across the country have confirmed what I have long known – the answer to America's challenges is not simply additional federal money to prop up programs that are clearly not working. True reform is not the expansion of a broken system. We should use this opportunity to develop innovative solutions that prioritize the services and populations our citizens value, not entrench a program that is pushing states to the brink of insolvency.

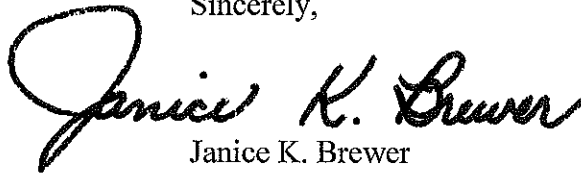
Speaker-elect Boehner

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I look forward to your leadership and to working with you on this important effort. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Janice K. Brewer". The signature is fluid and cursive, with the first name "Janice" being larger and more prominent than the last name "Brewer".

Janice K. Brewer  
Governor

cc: Senator John McCain  
Senator Jon Kyl  
Representative Trent Franks  
Representative Ed Pastor  
Representative Jeff Flake  
Representative Raul Grijalva  
Representative Gabrielle Giffords  
Representative-elect Paul Gosar  
Representative-elect Ben Quayle  
Representative-elect David Schweikert